

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

TAVARIS L. MOSS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-11-154-D
	)	
JOHN MIDDLETON, Assistant Warden,	)	
in his personal and official capacity;	)	
JOSEPH TAYLOR, Warden,	)	
in his personal and official capacity;	)	
JOHN HILLIGOSS, Unit Manager,	)	
in his personal and official capacity;	)	
DON STEER, Chief of Security,	)	
in his personal and official capacity;	)	
LAUREL BOGERT, Case Manager,	)	
in her personal and official capacity;	)	
TOMMY BATTLES, Senior Officer (Sgt.),	)	
in his personal and official capacity;	)	
RAY CHOATES, Unit Manager,	)	
in his personal and official capacity;	)	
and JUSTIN JONES, Director of Okla.	)	
Dept. of Corrections, in his	)	
personal and official capacity,	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION:**  
**MOTION FOR A TEMPORARY RESTRAINING ORDER**

The Plaintiff has moved for a temporary restraining order. Entry of such an order requires a showing that Mr. Moss is likely to succeed on the merits.<sup>1</sup> But the undersigned has elsewhere recommended dismissal of some claims and summary judgment to the

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<sup>1</sup> See *Weichmann v. Ritter*, 44 Fed. Appx. 346, 347 (10th Cir. July 26, 2002) (unpublished op.) (stating that the movant must show a likelihood of success on the merits, among other elements, to obtain a temporary restraining order).

defendants on the remaining causes of action. These rulings would prevent recovery by Mr. Moss. Thus, he is unlikely to succeed on the merits, and the Court should deny his motion for a temporary restraining order.

The parties can object to this report and recommendation. To object, the party must file an objection with the Clerk of this Court by December 22, 2011. *See* Fed. R. Civ. P. 6(d), 72(b)(2); 28 U.S.C. § 636(b)(1) (2010 supp.). The failure to timely object would foreclose appellate review of the suggested ruling. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

The present report discharges the referral.

Entered this 5th day of December, 2011.

  
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Robert E. Bacharach  
United States Magistrate Judge